

1 AN ACT concerning education.

2 WHEREAS, Food allergies are an increasing food safety and
3 public health concern in the United States, especially among
4 children; and

5 WHEREAS, As recognized by the National Institutes of Health
6 (NIH), food allergies are a life-threatening and debilitating
7 disease for more than 12 million Americans, including more than
8 4 million children; food allergies affect more than 500,000
9 Illinois residents, including 93,000 school-aged children
10 (ages 5 through 17); and

11 WHEREAS, Food allergies are increasing at an alarming rate;
12 over a recent 5-year period, the number of children diagnosed
13 with a peanut allergy doubled; and

14 WHEREAS, For many children, eating even a trace amount of
15 an allergenic food can induce a life-threatening reaction;
16 these reactions can include severe vomiting, swelling of the
17 tongue and throat, loss of consciousness, and even death in a
18 relatively short period of time; and

19 WHEREAS, Many of the most common allergens (peanuts, tree
20 nuts, milk, egg, soy, wheat, fish, and shellfish) are staples
21 of the average school child's diet and are also used
22 extensively within many Illinois school lesson plans, such as

1 in art and science projects; and

2 WHEREAS, A recent survey of elementary school nurses found
3 that the average school has 10 children suffering from severe
4 food allergies; 44% of the elementary school nurses surveyed
5 indicated that the number of students with food allergies had
6 increased over the previous 5 years, while only 2% reported a
7 decrease; and

8 WHEREAS, There is currently no cure for this potentially
9 fatal disease, and the only certain path to keep children safe
10 is by following strict safety guidelines specific to each
11 child's individual needs; and

12 WHEREAS, Despite the rights and protections afforded by
13 Section 504 of the Rehabilitation Act of 1973, the Individuals
14 with Disabilities Education Improvement Act of 2004, and the
15 Americans with Disabilities Act of 1990, children with severe
16 food allergies still face unsafe environments in school and
17 elsewhere; and

18 WHEREAS, There are no consistent food allergy management
19 guidelines in place in the State of Illinois; management
20 approaches differ from school to school; and

21 WHEREAS, In order to ensure the health and safety of all

1 children in the school environment, it is necessary for
2 educators, administrators, and school staff to understand the
3 severity of food allergies and to proactively work with parents
4 and health professionals to create clear and consistent
5 guidelines for managing allergies in the school; and

6 WHEREAS, The importance of managing food allergies in the
7 school setting has been recognized by the American Medical
8 Association, the American Academy of Allergy Asthma and
9 Immunology, the American Academy of Pediatrics, the National
10 Association of School Nurses, the National Association of
11 Elementary School Principals, the National School Boards
12 Association, the American College of Allergy Asthma and
13 Immunology, and the Food Allergy & Anaphylaxis Network; and

14 WHEREAS, To create clear and consistent guidelines to
15 provide the best measurable protection within the learning
16 environment and to meet the demands of the dramatically
17 increasing number of children affected by food allergies, the
18 General Assembly deems it in the public interest to enact this
19 Act; therefore

20 **Be it enacted by the People of the State of Illinois,**
21 **represented in the General Assembly:**

22 Section 5. The School Code is amended by adding Section

1 2-3.148 as follows:

2 (105 ILCS 5/2-3.148 new)

3 Sec. 2-3.148. Food allergy guidelines.

4 (a) Not later than July 1, 2009, the State Board of
5 Education, in conjunction with the Department of Public Health,
6 shall develop and make available to each school board
7 guidelines for the management of students with
8 life-threatening food allergies. The guidelines shall include,
9 but need not be limited to, the following:

10 (1) education and training for school personnel on the
11 management of students with life-threatening food
12 allergies, including training related to the
13 administration of medication with a cartridge injector;

14 (2) procedures for responding to life-threatening
15 allergic reactions to food;

16 (3) a process for the implementation of individualized
17 health care and food allergy action plans for every student
18 with a life-threatening food allergy; and

19 (4) protocols to prevent exposure to food allergens.

20 Notwithstanding any other rulemaking authority that may
21 exist, neither the Governor nor any agency or agency head under
22 the jurisdiction of the Governor has any authority to make or
23 promulgate rules to implement or enforce the provisions of this
24 amendatory Act of the 95th General Assembly. If, however, the
25 Governor believes that rules are necessary to implement or

1 enforce the provisions of this amendatory Act of the 95th
2 General Assembly, the Governor may suggest rules to the General
3 Assembly by filing them with the Clerk of the House and the
4 Secretary of the Senate and by requesting that the General
5 Assembly authorize such rulemaking by law, enact those
6 suggested rules into law, or take any other appropriate action
7 in the General Assembly's discretion. Nothing contained in this
8 amendatory Act of the 95th General Assembly shall be
9 interpreted to grant rulemaking authority under any other
10 Illinois statute where such authority is not otherwise
11 explicitly given. For the purposes of this amendatory Act of
12 the 95th General Assembly, "rules" is given the meaning
13 contained in Section 1-70 of the Illinois Administrative
14 Procedure Act, and "agency" and "agency head" are given the
15 meanings contained in Sections 1-20 and 1-25 of the Illinois
16 Administrative Procedure Act to the extent that such
17 definitions apply to agencies or agency heads under the
18 jurisdiction of the Governor.

19 (b) Not later than January 1, 2010, each school board shall
20 implement a policy based on the guidelines developed pursuant
21 to subsection (a) of this Section for the management of
22 students with life-threatening food allergies enrolled in the
23 schools under its jurisdiction.